



DEPARTMENT OF THE ARMY
HEADQUARTERS, 39TH BRIGADE SUPPORT BATTALION
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NGAR-39BSB-CSM

2 September 2016

MEMORANDUM FOR Major General Mark H Berry, The Adjutant General, Arkansas
National Guard, Camp Joseph T Robinson, North Little Rock, Arkansas 72199-9600

SUBJECT: Rebuttal to Proposed Relief for Cause

1. First of all, it was the saddest day of my military career that I have to endure losing a Soldier during training, only to then be found negligent for his untimely death. I am truly sorry this happened, but using statements attained from this Soldier's buddies the day after the incident who were looking for someone to blame before they even had time to grieve and then to find the leadership is to blame just extends the tragedy. I have replayed the decisions I made a million times, and with the information I received from my medics at the time while continually reassessing the situation, I do not see how any other Command Sergeant Major would have acted any differently than I did. In fact, other sergeants major in the 39th have stated that they believed adequate measures were in place to ensure the safety of the Soldiers in training.

2. On 14 June 2016, I left the Motor Pool with the Range Staff around 0530 enroute to Range 100, where I was at the AA when the training unit arrived around 0700. I followed the unit to Range 100 after I helped serve them chow and Gatorade that I personally made. I stayed until after the training unit departed to eat dinner chow. There are several inconsistencies and untruths I want to point out.

3. On 9 June 2016 at 1444, I sent a text with a picture from Charlie Med's Wet Bulb to all 1SGs with a picture of the correct work/rest schedule and Heat Categories after receiving numerous calls about being in Heat Cat V and still working for them to disseminate to their companies. I was continually referring to this chart. I had it on my phone and a copy printed out in my notebook to ensure we were not pushing the Soldiers too far or too fast. I was using the new schedule from 2016 in Exhibit 82, page 18 as my reference that says marksmanship training is Easy Work, not the old schedule from 2005 in Exhibit 83, page 2 that says marksmanship training is Moderate Work.

4. The first casualty I was aware of was SPC Bautista. I watched as two of our medics, with the MSG OC/T observing them, evaluate SPC Bautista. SPC Bautista immediately sat up from the stretcher and the medics decided to remove his ACU top and move him to a vehicle with air conditioning and give him water to cool him down. My vehicle was very close, so I cranked it up and personally retrieved his water source, then had my driver watch him as I went back to troop the line. There was nothing emergent that needed immediate evacuation according to all medics attending to him at that time. We had six medics on the lane with two ambulances, plus the two extra OC/T medics on

site. We believed we had plenty of medical support to combat any issues that might arise that day.

5. I was not aware of the actual first heat casualty (SPC Davis) that happened, according to the statements, at Range 100 AA, over a mile away from my dismounted location on the ground. After two of the crew served weapons on Firing Point 2 and Firing Point 3 malfunctioned, I was busy using my prior heavy weapons experience trying to get them operational for blank fire. Range personnel had briefed earlier in the day that blank fire was critical to the safe execution of the live fire later in the day.

6. SGT Cline's own PSG, SSG Heard, said in Exhibit 63 page 4 that he put SGT Cline in the shade for 45 minutes because of his physical condition, but did not inform anyone of his condition. SSG Heard stated that his Soldier, SGT Cline had already drunk two Camelbacks of fluid. Then SSG Heard let him back into training where he ultimately went down for a heat related injury. The range safety, SGT Barlow in Exhibit 24 page 1, stated that SGT Cline was not showing any symptoms of EHI until he jumped up and walked off to cool down while Cline himself said he was fine.

7. In Exhibit 27, MSG Farquharson said he traveled the route with the medics on the route recon, checked both FLA's for equipment, and we had double the required FLA's on site. MSG stated that it was a great opportunity to experience Ambulance Exchange Point operations because nothing emergent was present at that time. I had to rely on the medical expertise on the ground as I continually reassessed the situation. See Exhibit 31 page 2 and Exhibit 33 page 2 to reiterate that we as leadership understood from our medics that the casualties were in stable and responsive condition and were in no danger of losing life, limb, or eyesight.

8. I did not choose where the gun positions were placed. They were placed with strict guidance set by Range Control. The Alpha Company and platoon leadership recon had inspected the range the day prior to occupying and were fully aware of the conditions they would be operating in the next day with their assigned Soldiers. Due to finding UXO's, see Exhibit 24 page 1, the crews did not place stakes in the ground to anchor their camouflage nets. We provided shade, but unfortunately the Soldiers were not allowed to use stakes to put up the camo nets.

9. The Range Safety Officer took about 10-20 minutes on each crew served weapon system to lock the left and right limits down with hose clamps and a compass after the CSW was initially mounted. This is a break that the crews took down the line as the RSO moved from FP 1 to FP 3. We considered this rest time as required by the work rest cycle. The Soldiers were in the shade resting while their weapons were serviced.

10. Because I had extensive crew served weapons experience, having been in a leadership position in a heavy weapons company since 1995 with an additional 21 months of OC/T experience, I helped SPC Malrich from the 1-138 work on the M2 50

from FP 2. Then I walked down to FP 1 to help them remove the barrel and Blank Firing Attachment (BFA). When I came back to FP2, which was right in front of the ambulance and the OIC/NCOIC vehicles, I did talk to the medic (I think SPC Winters) sitting in the front seat of his ambulance with the vehicle running. I told him to make sure to remove the chock block if he drove off, and he informed me that another medic in the back was initially assessing a patient. I did not interrupt the procedure, but let the medic continue his assessment. Then I continued to assist SPC Malrich and SGT Scaife put the barrel and BFA on the M2 at FP2 to ensure it was safe to fire.

11. When I finally realized there were three heat casualties, they were driving off the range. The BC and I decided to end the range but did not convey our assessment to the training unit until the crews were eating chow; see Exhibit 28 page 2.

12. See Exhibit 33 page 1, where the medics assessed the first casualty and stated there was no need for evacuation and patient was stable. We, as leaders, must rely on our trained medical advisors to advise us on medical treatment.

13. There were numerous statements saying the IOTV was worn all day by training Soldiers. It was put out initially to their Commander by the OIC during the safety brief that the uniform was ACH, FLC, Gloves, and eye and ear protection. See Exhibit 30 page 1. There was also a second reiteration in Exhibit 30 page 2 where the OIC told the training unit that IOTV would not be worn during blank fire. See Exhibit 44 page 1 where it states the Alpha Company NCOs had some wearing IOTVs, and LT Baum had them ground the vests. I did notice that the two PSGs were wearing theirs sometime during the day, but they stated that they were setting the standard for leadership in Alpha Company. They wanted to train like they fight. I personally did not notice anyone else wearing their IOTV at any time.

14. SPC Davis, in Exhibit 39 page 1 said that his leadership checked his PPE the day prior and were told to be in bed by 2200 and have a water source and at least 3 MREs, therefore the range was properly planned. In Exhibit 37 page 1, SPC Bautista states that he was up until 2330 because some guys were making noise. SPC Bautista's and SPC Davis's leadership under CPT Cox did not ensure proper rest before traveling to the range. LTC Richardson stated in Exhibit 44, page 1 that the two PSGs briefed the timeline with a 2100 bedtime. SPC Davis says he was drinking water from the motor pool all the way to the range, but did not state that the water buffalo was on site for refills at the AA. SPC Davis did state that on page 2 the NCOs did move everyone off the line to take a break from the sun to stay cool.

15. SGT Neal, Exhibit 41 page 1, SGT Cline's partner on his CSW stated that he was not working for an hour or so while the UXO was cleared. SGT Neal stated that SGT Cline and he did not run out of water. I personally talked to SGT Cline during the day and he definitely was not wearing an IOTV. In fact, he was sitting in the shade in front of CPT Cox's vehicle.

16. SSG Tyner, Exhibit 42 page 1 stated that Soldiers were in IOTV during Heat Cat V which is an utter and complete untruth. As NCOIC beside the OIC as he was giving the range brief, he was in the perfect perch atop his truck to correct and mitigate any deficiencies he saw in the uniform of the trainees.

17. CPT Cox, Exhibit 43 page 1 stated that they filled their Camelbacks at Range 100 AA after getting called back from Range 100 where they inadvertently went. It is a total untruth that the Soldiers were training in IOTVs. It is a blatant untruth for CPT Cox to state on Page 4 that the BC, S3 and I were sitting in the shade and watched as her Soldiers suffered in the heat. I was continually trooping the line and reevaluating the training. CPT Cox never left the immediate area around her air conditioned vehicle to check on her Soldiers as she was part of the scenario on the radio from her platoon leaders during the iterations. In the August 2015 IDT at CJTR in a supply room, Alpha Company had a negligent discharge of a live M4 round. There were five Soldiers in the room including three pregnant females. Knowing this information, the command, including myself, realized that weapons safety must be the main focus for any Alpha Company training.

18. It is curious that the list of statements taken from the Alpha Company Soldiers were all very similar and there were no witness signatures on the sworn statements. The Soldiers were upset, and their statements were made out of passion.

19. Soldiers did in fact downgrade around CPT Cox's vehicle during breaks as has been previously noted. I, nor any other responsible leader, would allow the downgrading of necessary protective gear while performing missions with blank or live ammunition as LT Craig said he requested on the firing line.

20. In Exhibit 54, SGT Scaife said that several times personnel on the lane were told that the lane was unsafe. Never, in fact, did this get brought up to any safeties, medics, or to my attention during numerous hot washes. It was definitely hot as June in Fort Chaffee always is. I used the rest/work schedule as my guide. I did not have a stop watch to time every stop and start, but I believe there was more than ample rest time given. Even after the hot washes, LT Baum would say be ready in ten minutes for the next iteration. Ten minutes is plenty of time given for rest according to the work/rest matrix I was using.

21. In Exhibit 56, SGT Ireland talked about the 30 minutes she was off of her position while her weapon was being readied because of her barrel. That is the time I was pulling the barrel from FP3 and then bringing it up and installing it on FP2. She described that Cline was known as a sweaty person.

22. In some of the statements, Soldiers said they wanted to downgrade their gear. This meant they wanted to be in soft caps, however, I would not and would never allow

Soldiers to man live weapons in soft caps on a range. Downgrading from IOTVs was as downgraded as was allowable on that type of range.

23. In Exhibit 58, SGT McNealy described the PCC/PCI's LT Craig along with SSG Kell and SSG Heard checked everyone for full Camelback. This reinforces that the NCOs checked every Soldier before they came out on the range to train. Then, he describes LT Baum giving them a brief on the events for the day. He also describes the PSG SSG Kell and SGT Anderson switching out Soldiers to get in the shade and keep hydrated. In my opinion, the NCOs along with the full complement of OC/T's were observing the training and, although it was hot, taking corrective actions to mitigate any unsafe training.

24. In Exhibit 59, SSG Harris stated that he saw numerous Soldiers feeling light headed and staggering while walking and that movement was delayed back to get ammunition. That was never conveyed to anyone on the range staff, and a team leader would inform his superiors if that did actually happen. As command, all we can do is rely on our medics and our first line leadership. If we are not aware of the problems, we cannot correct them.

25. In Exhibit 61, SSG Henderson stated that the Soldiers did take breaks after the dry runs. She stated that the breaks were not long enough, but did not state how long the breaks should be. On the work/rest schedule I was looking at, our breaks were more than the 10 minutes required by the work/rest cycle. One point that SSG Henderson makes is how it all happened so fast. It was within an hour that the three Soldiers were treated for heat injury. After that, it was decided the range would close.

26. In Exhibit 62, SSG Maloney stated how the leadership did PCC/PCI's on the Soldiers after chow was eaten at the AA.

27. In Exhibit 63, SSG Heard the Platoon Sergeant, stated he was making sure every Soldier was doing what they were supposed to be doing as well as putting Soldiers in the most effective position to accomplish mission. He took SGT Cline and let him rest for 45 minutes because of his obvious physical state. This was never pushed up to any range leadership to use for future decisions. He then put SGT Cline "back in the game" without ever relaying that information to anybody else on the range. SSG Heard said that we had no plan for Heat Cat V, but he did not state his plan for Heat Cat V. I relied on the information presented to me at the time to make my decisions on the range.

28. In Exhibit 64, SGT Fricks said she swapped with SGT Cline to give him a rest. This information was never passed up to anybody in a leadership position on the range operations detail. She states that SGT Cline continued to tell everyone he was fine during the day. I was very happy with the way LT Baum performed his duties as OIC and of the team the units picked to help him. LT Baum was picked for this position because of his attention to detail.

29. In Exhibit 68, SSG Kell stated that the water buffalo was on site 15 minutes after he requested it. He stated that the training did not go as smooth as he had hoped. After a break, he was given an additional ten minutes to have Soldiers ready to train. That agrees with the work/rest schedule for the heat category we were in at the time. Soldiers were not in IBA/IOTV all day until this point. See Exhibit 30 of LT Baum.

30. In Exhibit 88, SGT Sutton said at 1620 that is the first time he was aware of having any medical interaction with SGT Cline.

31. In Exhibit 89, SPC Fields stated that he talked to SGT Cline because he was not sweating and looked kind of dazed but did not report that up to anyone on the range as a safety consideration. Only after the third Soldier went down did he notify someone. I was only aware of three Soldiers going down as they were driving off the range in an ambulance, but at the time it was just as a precautionary measure according to the medics I talked to. Up to that point, I was only aware of SPC Baustista.

32. In Exhibit 90, SPC Winters said that SGT Cline was stable with normal parameters and that he loosened his boots and told him to loosen his pants. After SGT Sutton worked through the details of moving the patients, SPC Winters drove off the range.

33. In Exhibit 92, W2 Tatum the Brigade Safety Officer, stated that he visited range 100 from 1045-1300. He felt that there was more than adequate coverage on the range and he observed no immediate risk. He also stated that he talked to CPT Cox in her vehicle while she was manning her radio (see my #17). W2 Tatum also observed Soldiers rotating from their positions to get water and talked with several about safety, hydration, and work reset cycles.

34. I do believe I acted accordingly, and was definitely not negligent in my duties with the information I had at the time. Looking back now with more information, I would change many decisions I made that day, but I will never have that chance. I used my many years' experience to make the best informed decisions with the information I was provided. I relied on my medics and they stated nothing emergent. There was three times the required medical coverage at the range. I reassessed training with LT Baum and the S3 Major Young all morning until the BC arrived, where together we reassessed training continually.

35. According to the extra statements provided by two other OC/T (CSM Reyes and SFC Odom) and the RSO SSG Rodney; there were plenty of safety considerations in place. They are attached as enclosures to this.

ENCLS

/Original Signed/
CHARLES FRANKS

NGAR-39BSB-CSM

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